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EXAMINER

OKEZIE, ESTHER O

ART UNIT PAPER NUMBER

3652

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/748,574	Applicant(s) RONNING, JAMES M.	
	Examiner Esther O. Okezie	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/11/05.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15-18 and 21 is/are rejected.
- 7) ☒ Claim(s) 13, 14 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendment filed on 10/11/2005 and the remarks presented therewith have carefully considered. Applicant's arguments with respect to claims 1-19 and 21 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the frame member" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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1. Claims 1,3-6,9,10,15,21 are rejected under 35 U.S.C. 102(b) as being anticipated by Wigle US 1,842,638.
2. Re claim 1, Wigle discloses a lifting frame assembly for a hoist (26) having a first end adapted to be attached to the hoist, the frame assembly including a guide (40), raisable and lowerable with the frame assembly by the hoist when the load is to be lifted, a lift slide (58) slidably mounted on said guide for movement along a central guide axis (see figs 4 and 5), a biasing member (55) connected between a frame member (59) and the lift slide (58) resiliently loading the lift slide to move along the guide in a direction toward the first end of the frame assembly to retracted position (fig 4), a stop (57) to limit the lift slide from moving relative to the guide in a direction away from its retracted position under gravity acting on a load (61) carried by the lift slide when the frame assembly and the guide are lifted by the hoist.
3. Re claim 3, the lifting frame of claim 1, wherein said guide comprises a tubular sleeve (40) liftable and lowerable with the frame assembly, and the lift slide (58) comprises a tube that is slidable in the tubular sleeve (fig 5).
4. Re claim 4, said biasing member (55) is attached between the frame (59) and the lift slide (58) in a position to fit within the tube comprising the lift slide (fig 5).
5. Re claim 5, the biasing member is an extension spring (55).
6. Re claim 6, said lift slide comprises a load support frame (60) having a load support surface having a shape complimentary to a surface of a load to be lifted to receive and support the load when the load is oriented in a selected position for lifting (fig 4).

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7. Re claim 9, said guide is a tubular sleeve (40), and the lift slide (58) is a tube that slides inside the tubular sleeve, said biasing member (55) positioned on the inside of the tube that slides inside the tubular sleeve, and the biasing member having one end secured to the tube (58) that slides inside the tubular sleeve and the other end secured to the frame assembly (59).

8. Re claim 10, the stop (57) comprises a bearing head secured to the slide, and the bearing head stopping against an upper end of the guide (52).

9. Re claim 15, Wigle discloses a load support for a hoist assembly comprising a pivoting frame member (43) that depends from a pivot connection (45) to the hoist assembly (26), a guide member (40) on the pivoting frame member (43), a lift slide (58) mounted on the guide member for slidable movement relative thereto, the lift slide being adapted to lift a load (61) carried thereon when the frame member and the guide member are lifted, a biased member (55) between the frame member and the lift slide that resiliently resists extension of the lift slide from a retracted position as the frame member and the guide member are raised, a stop (57) between the guide member and the lift slide to limit the amount of extension of the lift slide relative to the guide member (figs 4 and 5).

10. Re claim 16, the lift slide extends through the guide, and a load support frame at a lower end of said lift slide, said load support frame being capable of being adapted to support a beam.

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1. Re claim 17, said biasing member (57) urges the lift slide in a direction to maintain contact of the frame and a load (61,62) to be lifted for a selected distance of extension of the lift slide (fig 4).

11. Re claim 21, In combination with a hoist assembly (26) that raises and lowers a frame member (43) that carries a load (61,62) lifted against the force of gravity and wherein when lowering the frame member the load may be intentionally held from lowering, the frame member being connected to the hoist assembly, a guide member (40) on the frame member, a lift slide (58) mounted on the guide member for slidable movement relative to the guide member along a generally vertical axis, a load connection on a lower end of the lift slide for engaging and lifting a load, a biasing member (55) between the frame member and the lift slide that resiliently resists extension of the lift slide as the lift slide moves from a retracted position, and which permits the lift slide to move a limited amount away from and toward the retracted position when the lift slide is connected to a load, and a stop (57) engageable between the guide member and the lift slide in a lift slide stopped position to limit the amount of extension of the lift slide relative to the guide member as the frame is lifted by the hoist assembly to provide a direct lifting connection between the hoist assembly and the lift slide through the frame member and the stop engaging the guide member when the load being lifted causes the lift slide to extend to the stopped position (see figs 4 and 5).

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12. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Horstketter US 5,218,795.

13. Re claim 1, Horstketter discloses a lifting frame assembly (fig 18) for a hoist (col. 8, lines 34-48) having a first end adapted to be attached to the hoist, the frame assembly including a guide (tube 292), raisable and lowerable with the frame assembly by the hoist when the load is to be lifted, a lift slide (push rod 296) slidably mounted on said guide for movement along a central guide axis (see fig 22), a biasing member (302) connected between a frame member (202) and the lift slide (296) resiliently loading the lift slide to move along the guide in a direction toward a first end of the frame assembly to retracted position, a stop (298) to limit the lift slide from moving relative to the guide in a direction away from its retracted position under gravity acting on a load (254) carried by the lift slide when the frame assembly and the guide are lifted by the hoist.

14. Re claim 2, the frame assembly includes a yoke (214) pivotally mounted to the hoist about a horizontal pivot (330; fig 20).

15. Re claim 3, said guide comprises a tubular sleeve (292) liftable and lowerable with the frame assembly, and the lift slide (296) comprises a tube that is slidable in the tubular sleeve (fig 22).

16. Re claim 4, said biasing member (302) is attached between the frame and the lift slide (296) in a position to fit within the tube comprising the lift slide (fig 22).

17. Re claim 5, the biasing member is an extension spring (302).

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18. Re claim 6, said lift slide comprises a load support frame (274) having a load support surface having a shape complimentary to a surface of a load to be lifted to receive and support the load when the load is oriented in a selected position for lifting.

2. Re claim 7, the load support frame has a generally horizontal leg (272) having the load support surface for receiving the load, the load support surface supporting the load centered on the central guide axis of the guide (fig. 20).

19. Re claim 8, the horizontal leg comprises a first leg, a side bar connected to one end of the first leg, a second leg secured to the side bar and overlying the first leg and being spaced from the first leg sufficiently so the load is supportable between the first and second legs, the second leg being secured to the lift slide on a side of the guide opposite the from the first end (figs 20 and 22).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horstketter in view of Long. Horstketter discloses a lifting frame wherein the load support surface of the generally c-shaped leg (272) is substantially straight. Horstketter does not include adapter members mounted on the load support frame comprising

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pivoting straps that are mounted on portions of the load support frame and are adapted to rest on the load support surface to provide a guide receptacle for holding the load substantially centered on the central guide axis of the guide.

Long teaches a hoist assembly for metal sheets and metal coils including pivoting arms (15) mounted on portions of load support frame and adapted to rest on the load support surface (12) to provide a guide receptacle for holding the load (16) substantially centered on the central guide axis. It can be seen from figures 3-6 the pivoting arms are pivotable movable to project above or below the load support surface (12) and provide guides at opposite ends of said load support surface to match the configuration of the load to be lifted. It would have been obvious to one of ordinary skill in the art to modify the lifting assembly of Horstketter as taught by Long to include adapters members on the load frame comprising pivoting arms resting on the load support surface in order to more securely seize the load and center it on the load support frame.

20. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wigle in view of Camp. Wigle discloses a guide comprising a tubular sleeve (40), and a lift slide (58) extending from the guide as it moves (figs 4 and 5). Wigle does not disclose the lift slide being covered with indicia that is exposed in the lift slide retracted position and as it extends from its retracted position. Camp teaches a fishing-handling tool including a tubular sleeve (18) with a spring (78) and a tubular slide (82) extends within the sleeve for gripping a fish at pivoting ends (54). The slide (82) includes graduated indicia with

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numerals (86) to indicate the weight or force of the fish being gripped. It is obvious and well known to provide indication of the movement of a sliding member against a spring relative to a stationary sleeve member for measurement of displacement, force, tension, weight, etc. (i.e. tension gauge). It would have been obvious to one of ordinary skill in the art to modify the lifting assembly of Wigle as taught by Camp to include indicia on the lift slide in order to indicate the movement of the lift slide as it moves relative to guide sleeve in order to measure the displacement, weight, force, etc. of a load being lifted.

Allowable Subject Matter

Claims 13,14, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-19 and 21 have been considered but are moot in view of the new ground(s) of rejection.

Applicant has argued the obvious rejection in view of Camp as applied to the claim 18 presents nonanalogous art because Camp relates to a tool used during fishing. In response, In response to applicant's argument that the fish handling tool of Camp is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for

rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Camp teaches a fishing-handling tool including a tubular sleeve (18) with a spring (78) and a tubular slide (82) extends within the sleeve for gripping a fish at pivoting ends (54). The slide (82) includes graduated indicia with numerals (86) to indicate the weight or force of the fish being gripped. It is obvious and well known to provide indication of the movement of a sliding member against a spring relative to a stationary sleeve member for measurement of displacement, force, tension, weight, etc. (i.e. tension gauge). It would have been obvious to one of ordinary skill in the art to modify the lifting assembly of Wigle as taught by Camp to include indicia on the lift slide in order to indicate the movement of the lift slide as it moves relative to guide sleeve in order to measure the displacement, weight, force, etc. of a fish as well as another load being lifted.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (571) 272-8108. The examiner can normally be reached on Mon-Thurs 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EOO 1/13/05


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